



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2013-0129; FRL-9903-37-Region-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; North Carolina; Redesignation of the Charlotte; 1997 8-Hour Ozone Moderate Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to redesignate the portion of North Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 8-hour ozone nonattainment area (hereafter referred to as the “Area,” “North Carolina portion of the bi-state Charlotte Area,” “North Carolina portion of the Area,” or “Metrolina nonattainment area”) to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS), and to approve the maintenance plan for the Area. The State of North Carolina, through the North Carolina Department of Environment and Natural Resources, Department of Air Quality (NC DAQ), submitted the redesignation request and maintenance plan on November 2, 2011. The State supplemented the redesignation request and maintenance plan on March 28, 2013, extending the maintenance plan to the year 2025 and updating the sub-area motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the years 2013 and 2025 for the North Carolina portion of the Area. EPA’s approval of NC DAQ’s redesignation request is based on the determination that North Carolina has met the

criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). EPA finalized action to redesignate the South Carolina portion of the Area, including approval of South Carolina's maintenance plan for the 1997 8-hour ozone NAAQS, in a separate action.

DATES: This rule will be effective on [insert 30 days after the date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0129. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics

Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Spann may be reached by phone at (404) 562-9029, or via electronic mail at spann.jane@epa.gov. Ms. Waterson may be reached by phone at (404) 562-9061, or via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What is the Background for the Actions?**
- II. What are the Actions EPA is Taking?**
- III. Why is EPA Taking These Actions?**
- IV. What are the Effects of These Actions?**
- V. Final Action**
- VI. Statutory and Executive Order Reviews**

I. What is the Background for the Actions?

On November 2, 2011, North Carolina requested redesignation of the North Carolina portion of the bi-state Charlotte Area to attainment for the 1997 8-hour ozone NAAQS. The bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union, and a portion of Iredell County (Davidson and Coddle Creek Townships), North Carolina; and a portion of York County, South Carolina. The redesignation request included three years of complete, quality-assured ambient air quality data for the 1997 8-hour ozone NAAQS for 2008 – 2010, indicating that the 1997 8-hour ozone NAAQS had been achieved for the Area. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-

assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E).

Subsequently, on November 15, 2011 (76 FR 70656), EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008 – 2010 period, showing that the Area had monitored attainment of the 1997 8-hour ozone NAAQS.

On March 28, 2013, North Carolina submitted a supplemental SIP revision to the redesignation request and maintenance plan that extends the final year of the maintenance plan to 2025. Specifically, this revision updates emissions data, emissions projections, MVEBs, and safety margins to 2025. Additionally, it provides updated ozone design values for the bi-state Charlotte Area.

EPA reviewed quality-assured ozone monitoring data from ambient ozone monitoring stations in the Charlotte Area, as recorded in Air Quality System (AQS), and summarized the 3-year average of the annual fourth highest daily maximum 8-hour average (i.e., design value) for each monitor for 2008 – 2010, 2009 – 2011, and 2010 – 2012 in Tables 1, 2, and 3 below. The 2008 – 2010 design values demonstrate that the Area attained by its attainment date, and the 2009 – 2011 and 2010 – 2012 design values demonstrate that the bi-state Charlotte Area continues to meet the 1997 8-hour ozone NAAQS. Preliminary data indicate that the Area continues to attain with 2011 – 2013 data.

Table 1. 2008 – 2010 Design Value Concentration for the Charlotte Area* for the 1997 8-hour ozone NAAQS (parts per million(ppm))

Location	County	Monitor ID	4th Highest 8-hour Ozone Value			3-Year Design Values
			2008	2009	2010	2008-2010

Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.079	0.065	0.072	0.072
Garinger High School	Mecklenburg	37-119-0041	0.085	0.069	0.082	0.078
Westinghouse Blvd	Mecklenburg	37-119-1005	0.073	0.068	0.078	0.073
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.093	0.071	0.082	0.082
Rockwell	Rowan	37-159-0021	0.084	0.071	0.077	0.077
Enochville School	Rowan	37-159-0022	0.082	0.073	0.078	0.077
Monroe Middle School	Union	37-179-0003	0.080	0.067	0.071	0.072

*An ozone monitor is located in York County, SC; however, it is outside of the nonattainment area. This monitor is monitoring attainment of the 1997 8-hour ozone NAAQS.

Table 2. 2009 – 2011 Design Value Concentration for the Charlotte Area* for the 1997 8-hour ozone NAAQS (ppm)

Location	County	Monitor ID	4th Highest 8-hour Ozone Value			3-Year Design Values
			2009	2010	2011	2009-2011
Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.065	0.072	0.077	0.071
Garinger High School	Mecklenburg	37-119-0041	0.069	0.082	0.088	0.079
Westinghouse Blvd	Mecklenburg	37-119-1005	0.068	0.078	0.082	0.076
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.071	0.082	0.083	0.078
Rockwell	Rowan	37-159-0021	0.071	0.077	0.077	0.075
Enochville School	Rowan	37-159-0022	0.073	0.078	0.078	0.076
Monroe Middle School	Union	37-179-0003	0.067	0.071	0.073	0.070

*An ozone monitor is located in York County, SC; however, it is outside of the nonattainment area. This monitor is monitoring attainment of the 1997 8-hour ozone NAAQS.

Table 3. 2010 – 2012 Design Value Concentration for the Charlotte Area* for the 1997 8-hour ozone NAAQS (ppm)

Location	County	Monitor ID	4th Highest 8-hour Ozone Value			3-Year Design Values
			2010	2011	2012	2010 - 2012
Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.072	0.077	0.076	0.075
Garinger High School	Mecklenburg	37-119-0041	0.082	0.088	0.080	0.083
Westinghouse Blvd	Mecklenburg	37-119-1005	0.078	0.082	0.073	0.077
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.082	0.083	0.085	0.083
Rockwell	Rowan	37-159-0021	0.077	0.077	0.080	0.078
Enochville School	Rowan	37-159-0022	0.078	0.078	0.077	0.077
Monroe Middle School	Union	37-179-0003	0.071	0.073	0.075	0.073

*An ozone monitor is located in York County, SC; however, it is outside of the nonattainment area. This monitor is monitoring attainment of the 1997 8-hour ozone NAAQS.

This rulemaking does not address requirements for the bi-state Charlotte Area that was designated nonattainment for the 2008 8-hour ozone NAAQS. Requirements for the bi-state Charlotte 2008 8-hour ozone nonattainment area will be addressed in the future.

NC DAQ chose to establish sub-area MVEBs based on geographical areas that correspond to the Metropolitan Planning Organization (MPO) and/or Rural Planning Organization (RPO) boundaries. Accordingly, NC DAQ established MVEBs for the CRMPO (Cabarrus and Rowan Counties), for the Gaston Urban Area MPO and Lake Norman RPO (Gaston, Iredell, and Lincoln Counties), and for the MUMPO and Rocky River RPO (Mecklenburg and Union Counties) geographical areas.

II. What are the Actions EPA is Taking?

In today's rulemaking, EPA is approving: (1) North Carolina's 1997 8-hour ozone maintenance plan as amended by the State's March 28, 2013 supplemental SIP submittal (such approval being one of the CAA criteria for redesignation to attainment) for the North Carolina portion of the Area, including the sub-area MVEBs; and (2) North Carolina's redesignation request to change the legal designation of the North Carolina portion of the Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. The maintenance plan meets the requirements of section 175A and is designed to demonstrate that the North Carolina portion of the Area (as part of the bi-state Charlotte Area) will continue to attain the 1997 8-hour ozone NAAQS through 2025. EPA's approval of the redesignation request is based on EPA's determination that North Carolina meets the criteria for the North Carolina portion of the Area for redesignation set forth in CAA section 107(d)(3)(E), including EPA's determination that the North Carolina portion of the Area has attained the 1997 8-hour ozone NAAQS. EPA's analyses of North Carolina's redesignation request and maintenance plan are described in detail in the July 26, 2013, proposed rule. *See* 78 FR 45152. EPA did not receive any comments, adverse or otherwise, on the July 26, 2013, proposed rule to redesignate the North Carolina portion of the bi-state Charlotte Area to attainment for the 1997 8-hour ozone NAAQS. EPA finalized the adequacy determination for the MVEBs on August 13, 2013. *See* 78 FR 49265. EPA finalized approval of South Carolina's request to redesignate the South Carolina portion of the Area, including approval of South Carolina's maintenance plan for the 1997 8-hour ozone NAAQS, in a separate action. *See* 77 FR 75862.

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2013 and 2025 sub-area MVEBs for NO_x and VOC for the North Carolina portion of the Area. EPA

informed the public that the 2013 and 2025 sub-area MVEBs are adequate for transportation conformity on August 13, 2013. *See* 78 FR 49265. Tables 4 through 6 below provide the NOx and VOC sub-area MVEBs in kilograms per day (kg/day),¹ for 2013 and 2025.

Table 4. Cabarrus-Rowan MPO MVEBs (kg/day)

	2013	2025
<i>NOx Emissions</i>		
On-Road Mobile Emissions	19,838	9,961
Safety Margin Allocated to MVEBs	1,984	1,992
NOx Conformity MVEBs	21,822	11,953
<i>VOC Emissions</i>		
On-Road Mobile Emissions	9,863	5,425
Safety Margin Allocated to MVEBs	986	1,085
VOC Conformity MVEBs	10,849	6,510

Table 5. Gaston Urban Area MPO/Lake Norman RPO MVEBs (kg/day)

	2013	2025
<i>NOx Emissions</i>		
On-Road Mobile Emissions	19,957	10,360
Safety Margin Allocated to MVEBs	2,211	2,181
NOx Conformity MVEBs	22,168	12,541
<i>VOC Emissions</i>		
On-Road Mobile Emissions	10,442	5,815
Safety Margin Allocated to MVEBs	1,168	1,232
VOC Conformity MVEBs	11,610	7,047

¹ The conversion to kilograms used the actual emissions reported in the MOVES model. The conversion was done utilizing the “CONVERT” function in an EXCEL spreadsheet.

Table 6. Mecklenburg-Union MPO/Rocky River RPO MVEBs (kg/day)

	2013	2025
<i>NOx Emissions</i>		
On-Road Mobile Emissions	57,198	30,391
Safety Margin Allocated to MVEBs	4,303	5,337
NOx Conformity MVEBs	61,501	35,728
<i>VOC Emissions</i>		
On-Road Mobile Emissions	26,250	14,769
Safety Margin Allocated to MVEBs	2,002	2,609
VOC Conformity MVEBs	28,252	17,378

North Carolina has chosen to allocate a portion of the available safety margin to the NOx and VOC MVEBs for 2013 and 2025 (45.20 tpd and 107.38 tpd of the NOx 2013 and 2025 safety margins remain, respectively, and 19.96 tpd and 27.95 tpd of the VOC 2013 and 2025 safety margins remain, respectively).

In this action, EPA is also approving these NOx and VOC sub-area MVEBs for the purposes of transportation conformity. For required regional emissions analysis years involving 2013 and prior to 2025, the applicable budgets will be the new 2013 sub-area MVEBs. For required regional emissions analysis years that involve 2025 or beyond, the applicable budgets will be the new 2025 sub-area MVEBs.

III. Why is EPA Taking These Actions?

EPA has determined that the North Carolina portion of the Area has attained the 1997 8-hour ozone NAAQS and has also determined that all other criteria for the redesignation of the North Carolina portion of the Area from nonattainment to attainment of the 1997 8-hour ozone NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the

North Carolina portion of the Area has an approved plan demonstrating maintenance of the 1997 8-hour ozone NAAQS. EPA is taking final action to approve the maintenance plan for the North Carolina portion of the Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. EPA is also approving the new NO_x and VOC sub-area MVEBs for the years 2013 and 2025 as contained in North Carolina's maintenance plan for the North Carolina portion of the Area because these sub-area MVEBs are consistent with maintenance of the 1997 8-hour ozone NAAQS in the Area. The detailed rationale for EPA's findings and actions are set forth in the July 26, 2013, proposed rulemaking and in other discussion in this final rulemaking.

IV. What are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of the North Carolina portion of the Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is modifying the regulatory table in 40 CFR 81.334 to reflect a designation of attainment for the affected counties. EPA is also approving, as a revision to the North Carolina SIP, the State's plan for maintaining the 1997 8-hour ozone NAAQS in the North Carolina portion of the Area through 2025. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 8-hour ozone NAAQS, and establishes NO_x and VOC subarea MVEBs for the years 2013 and 2025 for the North Carolina portion of the Area.

V. Final Action

EPA is taking final action to approve the redesignation and change the legal designation of the North Carolina portion of the Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. Through this action, EPA is also approving into the North Carolina SIP the

1997 8-hour ozone maintenance plan for the North Carolina portion of the Area, which includes the new NO_x and VOC sub-area MVEBs for 2013 and 2025 for the North Carolina portion of the Area.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state or federal law. For these reasons, these actions:

- are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA

will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: November 14, 2013.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52-[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. Section 52.1770(e) is amended by adding an entry “1997 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State submittal date/effective date	EPA approval date	Federal Register citation	Explanation
**	**	**	*	
1997 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area	November 2, 2011, and supplemented on March 28, 2013	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]	

PART 81-[DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.334, the table entitled “North Carolina-1997 8-Hour Ozone NAAQS (Primary and Secondary)” is by revising the entries for “Charlotte-Gastonia-Rock Hill, NC-SC,” “Cabarrus County,” “Gaston County,” “Iredell County (part) Davidson Township, Coddle Creek Township,” “Lincoln County,” “Mecklenburg County,” “Rowan County,” and “Union County” to read as follows:

§ 81.334 North Carolina.

* * * * *

North Carolina-1997 8-Hour Ozone NAAQS (Primary and Secondary)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Charlotte-Gastonia-Rock Hill, NC-SC	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Cabarrus County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Gaston County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Iredell County (part) Davidson Township, Coddle Creek Township	This action is effective [Insert date of publication in the Federal Register]	Attainment		

Lincoln County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Mecklenburg County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Rowan County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
Union County	This action is effective [Insert date of publication in the Federal Register]	Attainment		
**	**	**	*	

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

² Effective April 15, 2008.

³ November 22, 2004.

⁴ Attainment date extended to June 15, 2011.

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[FR Doc. 2013-28099 Filed 11/29/2013 at 8:45 am; Publication Date: 12/02/2013]